

Comments On "Full Faith and Credit" Issue for SB 410 -Bridge Legislation

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Types of Bonds:

- Revenue bonds payable solely from the revenue of a project.
- Tax revenue bonds, pledging a stream of tax revenue, e.g., gas tax bonds for roads.
- Full faith and credit bonds pledging the full faith and credit of the political unit or agency.

Michigan Constitutional Provisions Using Full Faith and Credit

Art. IX, § 14 State borrowing; short term. To meet obligations incurred pursuant to appropriations for any fiscal year, the legislature may by law authorize the state to issue its full faith and credit notes in which case it shall pledge undedicated revenues to be received within the same fiscal year for the repayment thereof. Such indebtedness in any fiscal year shall not exceed 15 percent of undedicated revenues received by the state during the preceding fiscal year and such debts shall be repaid at the time the revenues so pledged are received, but not later than the end of the same fiscal year.

Schedule § 14 Mackinac Bridge Authority; refunding of bonds, transfer of functions to highway department. The legislature by a vote of two-thirds of the members elected to and serving in each house may provide that the state may borrow money and may pledge its full faith and credit for refunding any bonds issued by the Mackinac Bridge Authority and at the time of refunding the Mackinac Bridge Authority shall be abolished and the operation of the bridge shall be assumed by the state highway department. The legislature may implement this section by law.

Art. IX, § 9 Use of specific taxes on fuels for transportation purposes; authorization of indebtedness and issuance of obligations.

The legislature may authorize the incurrence of indebtedness and the issuance of obligations pledging the taxes allocated or authorized to be allocated by this section, which obligations shall not be construed to be evidences of state indebtedness under this constitution.

Art. IX, § 15 **Long term borrowing by state.** The state may borrow money for specific purposes in amounts as may be provided by acts of the legislature adopted by a vote of two-thirds of the members elected to and serving in each house, and approved by a majority of the electors voting thereon at any general election. The question submitted to the electors shall state the amount to be borrowed, the specific purpose to which the funds shall be devoted, and the method of repayment.

Art. IX, § 16 **State loans to school districts.** The state, in addition to any other borrowing power, may borrow from time to time such amounts as shall be required, pledge its faith and credit and issue its notes or bonds therefor, for the purpose of making loans to school districts as provided in this section.

Art. IX, § 18 **State credit.** The **credit of the state shall not be granted to, nor in aid of any person, association or corporation, public or private, except as authorized in this constitution.**

PAYMENT OF FULL FAITH AND CREDIT OBLIGATIONS (EXCERPT)
Act 259 of 1982

12.61 Purpose of act; "obligations" defined.

Sec. 1. The purpose of this act is to provide for the payment of the principal of and interest on obligations of this state issued pursuant to section 14, 15, or 16 of article 9 of the state constitution of 1963, which are full faith and credit obligations of this state. For purposes of this act, "obligations" means any obligation issued by the state pursuant to section 14, 15, or 16 of article 9 of the state constitution of 1963, which are full faith and credit obligations of this state.

BONUS BONDS (EXCERPT)
Act 4 of 1947

35.901 Veterans' bonds; issuance by state administrative board; interest; denominations; maturity; registration; reconversion; cancellation; execution by state treasurer; public sale; temporary bonds; proceeds to constitute veterans' military pay fund; state purchase.

Sec. 1. The **people of Michigan by constitutional amendment having authorized the state to borrow** not to exceed \$270,000,000.00, pledge its faith and credit and issue its serial notes or serial bonds for the purpose of paying to each person, or if deceased to the surviving husband or wife, child or children, or to the surviving dependent mother, father, person standing in loco parentis, brothers and sisters, in the order named, of any person who served in the military, naval, marine or coast guard forces of the United States, including women serving in auxiliary branches, between September 16, 1940, and June 30, 1946.... the state administrative board is hereby authorized and directed, to borrow **upon the full faith and credit of this state** money in the sum of not to exceed \$270,000,000.00, to issue serial bonds or serial notes of the state in a like amount, and to expend from

the veterans' military pay fund created in this act a sufficient amount to cover the reasonable cost of the printing and the other expense incident to the issuance of the serial bonds or notes. The bonds shall be known as veterans' bonds....

BONDS TO PROVIDE SERVICE BONUS FOR VIETNAM VETERANS (EXCERPT)
Act 106 of 1974

35.1002 Bonds.

Sec. 2.

The state shall borrow not more than \$205,000,000.00, **pledge its faith and credit**, and issue its serial notes or serial bonds therefor, with maturities as fixed by law for the purpose of paying to or for the benefit of veterans and their beneficiaries as provided in section 3.

HERTEL-LAW-T. STOPCZYNSKI PORT AUTHORITY ACT (EXCERPT)
Act 639 of 1978

120.114 Revenue bonds; applicability of revenue bond act; revenue bonds payable solely from revenues or income.

Sec. 14.

(1) An authority may provide by resolution for the issuance of revenue bonds of the authority for the purpose of providing funds for paying the cost of port facilities, or for paying the cost of an extension, enlargement, or improvement of a project then under the control of the authority. ...

(3) Revenue bonds issued pursuant to this section **shall not be considered to constitute a debt of this state**, a political subdivision of this state, the authority, or any constituent unit, or a pledge of the faith and credit of this state or a political subdivision of this state or of the authority or any constituent unit, but shall be **payable solely from the revenues or income to be derived from the projects**. The revenue bonds shall contain on their face a statement to the effect that the bonds and attached coupons are payable solely from revenues and **are not a general obligation of this state**, a political subdivision of this state, the authority, or a constituent unit, and **neither the faith and credit nor the taxing power of this state**, a political subdivision of this state, the authority, or a constituent unit, is **pledged** to the payment of the principal of or the interest on the bonds.

CLEAN MICHIGAN INITIATIVE ACT (EXCERPT)
Act 284 of 1998

324.95102 Bonds; limitation on amount; issuance; full faith and credit; purpose.

Sec. 2.

The state shall borrow a sum not to exceed \$675,000,000.00 and issue the general obligation bonds of this state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, to finance environmental and natural resources protection

programs that would clean up and redevelop contaminated sites, protect and improve water quality, prevent pollution, abate lead contamination, reclaim and revitalize community waterfronts, enhance recreational opportunities, and clean up contaminated sediments in lakes, rivers, and streams.

History: 1998, Act 284, Imd. Eff. July 27, 1998 **Compiler's Notes:** Act 284 of 1998, known as the Clean Michigan Initiative Act, which was approved by the Governor and filed with the Secretary of State on July 27, 1998, provides that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95105] is approved by a majority vote of the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum not to exceed \$675,000,000.00 and the issuance of the general obligation bonds of the state for the purposes set forth in this act was submitted to the qualified electors of the state at the November 3, 1998, general election as Proposal C. Proposal C **was approved by a majority of the electors** voting thereon at the November 3, 1998, general election.

GREAT LAKES WATER QUALITY BOND AUTHORIZATION ACT (EXCERPT)
Act 396 of 2002

324.95205 Submission of question to electors; vote required.

Sec. 5.

The question of borrowing a sum not to exceed \$1,000,000,000.00 and the issuance of the general obligation bonds of the state for the purposes set forth in this act shall be submitted to a vote of the electors of the state qualified to vote on the question in accordance with section 15 of article IX of the state constitution of 1963 at the next general election. The question submitted to the electors shall be substantially as follows:

"Shall the state of Michigan finance sewage treatment works projects, storm water projects, and nonpoint source projects, that improve the quality of the waters of the state, by borrowing a sum not to exceed \$1,000,000,000.00 and issuing general obligation bonds of the state, pledging the full faith and credit of the state for the payment of principal and interest on the bonds, the method of repayment of the bonds to be from the general fund of the state?

Yes

No.".

History: 2002, Act 396, Imd. Eff. May 30, 2002 **Compiler's Notes:** Act 396 of 2002, which was approved by the Governor on May 29, 2002, and filed with the Secretary of State on May 30, 2002, provides that bonds "shall not be issued under this act unless the question set forth in section 5 [MCL 324.95205] is approved by a majority vote of

the registered electors voting on the question." In accordance with Const 1963, art 9, sec 15, the question of borrowing a sum of not to exceed \$1,000,000,000.00 and the issuance of general obligation bonds of the state for the purposes set forth in the act was submitted to a vote of the qualified electors of the state at the November 5, 2002 general election as Proposal 02-2, which read as follows: "A PROPOSAL TO AUTHORIZE BONDS FOR SEWAGE TREATMENT WORKS PROJECTS, STORM WATER PROJECTS AND WATER POLLUTION PROJECTS The proposal would: —Authorize the State of Michigan to borrow a sum not to exceed \$1 billion to improve the quality of the waters of the state by financing sewage treatment works projects, storm water projects and water pollution projects.—Authorize the state to issue general obligation **bonds pledging the full faith and credit of the state** for the payment of principal and interest on the bonds.—Provide for repayment of the bonds from the general fund of the state. Should this proposal be adopted? Yes _____ No _____" Proposal 02-2 was approved by a majority of the electors voting thereon at the November 5, 2002, general election.

PUBLIC RECREATION BONDS

Act 257 of 1968

318.351-318.362 Repealed. 1995, Act 58, Imd. Eff. May 24, 1995.

STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966 (EXCERPT) **Act 346 of 1966**

125.1441 Faith and credit bonds.

Sec. 41.

The authority from time to time at its discretion may recommend an issuance of faith and credit bonds to the legislature for a vote of the people.

Advisory Opinion re Constitutionality of PA 1966, No. 346.

The state of Michigan is not authorized to borrow. Article 9, §12 of the Constitution of 1963 says,

"No evidence of state indebtedness shall be issued except for debts authorized pursuant to this constitution."

The prohibition is clear and unequivocal. The State is without authority to borrow money except as constitutionally granted.

The framers of the 1963 constitution created a pay-as-you-go government for the State of Michigan.

Before passing to a discussion of public purpose, we must resolve the question of whether Act. No. 346 does in fact grant of the credit of the State of Michigan to the authority contrary to article 9, §18 of the 1963 Constitution.

As has often been held by our Court, revenue bonds and self-liquidating bonds do not constitute the obligations of the State of Michigan.

Section 31 of the act specifically provides:

"The state shall not be liable on notes or binds of the authority and such notes and bonds shall not be a debt of the state. ..."

**STATE BUILDING AUTHORITY (EXCERPT)
Act 183 of 1964**

830.418 Revenue obligations generally.

Sec. 8. (1) By resolution or resolutions of its board, the building authority may provide for the **issuance of revenue obligations**, which may include revenue bonds, revenue notes, or other evidences of revenue indebtedness, and refunding revenue bonds or notes, or other refunding evidences of indebtedness, the **obligations for which shall not become a general obligation of this state or a charge against this state**, but all revenue obligations and the interest on the revenue obligations and the call premiums for the revenue obligations shall be **payable solely from true rental**, except to the extent paid from the proceeds of sale of revenue obligations and any additional security provided for and pledged, or from other funds as provided in this act, and each revenue obligation shall have such a statement printed on the face of the revenue obligation. ...

**HOSPITAL FINANCE AUTHORITY ACT (EXCERPT)
Act 38 of 1969**

331.44 Bonds and notes; renewal notes; refunding bonds; notes or bonds as general obligations of authority; contents of resolution authorizing notes or bonds; authority of member, officer, or other employee.

Sec. 14. (1) The state authority periodically **may issue its negotiable bonds** and

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notes, including, but not limited to, commercial paper in a principal amount that, in the opinion of the state authority, is necessary to provide sufficient funds for the making of hospital loans, including temporary loans during the construction of hospital facilities, and for the payment of interest on bonds and notes of the state authority during construction of hospital facilities for which the hospital loan was made and for a reasonable time after the loan was made and for the establishment of reserves to secure those bonds and notes. ...

(3) Except as may otherwise be expressly provided by the state authority, every issue of its notes or **bonds shall be general obligations of the authority payable out of any properties, revenues, or money of the state authority**, subject only to any agreements with the holders of particular notes or bonds pledging any particular properties, revenues, or money.

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